Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CORNELIS M. HUIZER, LUCAS M.W.M. KAREL,
FRANK BOSVELD and PIETER JAN DE VISSER

Appeal No. 2002-1162
Application No. 08/683,994[1]

ON BRIEF

Before LEVY, BLANKENSHIP and SAADAT, Administrative Patent Judges.
SAADAT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the Examiner's final rejection of claims 1-13, which are all of the claims pending in this application.

We reverse.

[1] Application for patent filed July 19, 1996, which claims the foreign filing priority benefit under 35 U.S.C. § 119 of the European Application No. EPO 95202019.6, filed July 21, 1995.

BACKGROUND

Appellants' invention is directed to a method of transmitting and receiving compressed television signals that marks the transmitted signal with position labels at positions where the transmission of the signal can be resumed after an interruption. Appellants utilize a transmission strategy in which a decoder throws away all bits that are delivered by the network after the "Pause" command has been issued (specification, page 2). According to Appellants, the server cannot exactly determine the stream position at the time the pause was affected at the decoder due to the delay in communication (id.). By transmitting position labels, decoders can precisely determine which bits are stored and which ones are to be thrown away after the "Pause" command is detected wherein the continuation of the stream involves the request for new bits starting at the appropriate position label (specification, page 3).

Representative independent claim 1 is reproduced below:

> 1. A method of transmitting a compressed television signal, comprising the steps of inserting position labels into said signal at positions where the transmission of said signal can be resumed after an interruption, wherein reproduction of said signal is interrupted upon detection of a position label after a pause command is received.

The Examiner relies on the following reference in rejecting the claims:

Kostreski et al. (Kostreski)	5,635,979	Jun. 3, 1997 (filed May 27, 1994)

Claims 1-13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Kostreski.

We make reference to the answer (Paper No. 16, mailed November 21, 2000) for the Examiner's complete reasoning in support of the rejection and to the appeal brief (Paper No. 15, filed September 18, 2000) for Appellants' arguments thereagainst.

OPINION

The Examiner equates the claimed "position label" with the "time stamp" of Kostreski which is derived from the MPEG data of a "frozen frame" and is sent back to the server along with a "pause" command (answer, page 4). Additionally, the Examiner characterizes Kostreski's "deriving" action (Col. 17, lines 63-67) indicated by extracting the "time stamp" already present in the data stream when the "pause" command is actuated as resumption of the transmission signal (answer, page 4).

Appellants rely on the disclosure of Kostreski in Column 17, lines 59-64 and argue that the time stamp disclosed in the prior art is neither inserted into the signal at positions where the

transmission of the signal can be resumed after an interruption nor is the reproduction of the signal interrupted upon detection of a position label after a pause command is received (brief, pages 4 & 5). Additionally, Appellants assert that when a subscriber enters a "pause" command, the decoding is immediately frozen and the last decoded frame is displayed (brief, page 5). Appellants further argue that Kostreski's time stamp is not the same as the claimed position labels because the time stamp is derived from the MPEG data of the frozen frame and is transmitted after the decoding is frozen (id.).

In response to Appellants' arguments, the Examiner asserts that the positioning of the frames is encoded as part of the normal MPEG data stream whereas time stamps are interleaved with the frame data which are extracted in the client hardware (answer, page 5). The Examiner further relies on the timing and frame information during the normal display of the movie and concludes that such timing information, which is embedded in the MPEG data stream before the data stream is transmitted to the client, reads on the claimed "position labels" (id.).

A rejection for anticipation under section 102 requires that the four corners of a single prior art document describe every element of the claimed invention, either expressly or inherently,

such that a person of ordinary skill in the art could practice the invention without undue experimentation. See Atlas Powder Co. v. Ireco Inc., 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999); In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

After a review of Kostreski, we agree with Appellants' assertion that the time stamps are not inserted into the signal and the decoding is actually frozen before the time stamp is transmitted. Kostreski relates to a programmable digital entertainment terminal (DET) that may be dynamically reprogrammed on an as-needed basis to provide a wide range of functionally different broadband services (Col. 1, lines 8-12 and Col. 3, lines 60-65). As depicted in figure 3, a video on demand application with an enhanced pause functionality is disclosed wherein upon receiving a "PAUSE" command from the subscriber, the DET provides for immediately freezing the decoding and displaying the last decoded frame (col. 17, lines 57-60). It is clear that once the pause of the program is detected, the DET transmits a time stamp derived from the MPEG data of the frozen frame as well as a pause command to the server (Col. 17, lines 60-65) which stops transmitting video and stores the time stamp (Col. 17, lines 65 & 66). Therefore, as pointed out by Appellants, instead

of the claimed "reproduction of said signal is interrupted upon detection of a position label after a pause command is received," Kostreski provides for transmitting a time stamp derived from the MPEG data of a frozen frame. In other words, the transmission is first frozen and then a time stamp is sent to the server which later resumes transmission from the frame group identified by the time stamp.

We find Appellants' distinction of the steps or means for resuming transmission after an interruption at positions where the position labels are inserted and interrupting the signal when a position label is detected, as recited in claims 1 and 7, over the time stamp of Kostreski to be persuasive. As discussed above, the time stamps are not inserted into the video signal and are, in fact, generated and transmitted after freezing the decoding of the signal. We note that claims 7 and 12, in addition to the above discussed features, require that upon receiving the pause command, the received signal following the position label be thrown away. As discussed above, the Examiner neither points to any specific portion of Kostreski that discloses the discarding of the received signal following the position label, nor do we find the time stamp of Kostreski to include information for directing such task. Accordingly,

Kostreski cannot anticipate any of independent claims 1, 6, 7 and 12, nor claims 2-5, 8-11 and 13 dependent therefrom.

CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 1-13 under 35 U.S.C. § 102 is reversed.

REVERSED

STUART S. LEVY Administrative Patent Judge	)	
HOWARD B. BLANKENSHIP Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
MAHSHID D. SAADAT Administrative Patent Judge	)	

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